

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1. CRM-M-23118-2024 (O&M)
Reserved on:19.12.2024
Date of pronouncement:15.01.2025

SATYAWAN

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Shivansh Malik, Advocate and
Mr. Aaryan Suri, Advocate
for the petitioner.

Mr. Amrik Singh Narwal, DAG, Haryana with
Mr. Anil Chahal, DAG, Haryana.

Mr. Nikhil Vats, Advocate
for the complainant.

HARPREET KAUR JEEWAN, J.

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.249 dated 19.12.2023 (Annexure P-1) under Sections 376(2)(n), 376(3), 376 DA, 506 IPC and Section 6 of the POCSO Act, 2012, registered at Police Station Bahuakbarpur, Rohtak, District Rohtak.

2. As per the custody certificate dated 18.12.2024, the petitioner has undergone 11 months and 20 days of actual custody.

3. The case was registered on the basis of a complaint given by the prosecutrix. The victim had alleged that on 18.12.2023, Amar-co-accused of the petitioner had telephonically called her to meet him. Thereafter, the complainant and co-accused-Amar met at Jind by-pass, Rohtak. Another co-accused-Rahul

was also present there. Both Amar and Rahul took the prosecutrix to another place and both are alleged to have sexually ravished her. Thereafter, the prosecutrix was made to sit in a bus and she reached Meham, where she fell sick. Then again she went to Rohtak bus stand from where she called co-accused-Amar from mobile phone of another person. Both Amar and Rahul again met her at Rohtak bus stand and made her sit in a car. Thereby they took her to the same place where she was earlier being taken. The co-accused-Amar again made physical relations with the complainant and she was left to a new bus stand. The prosecutrix contacted her mother by making a phone call. The prosecutrix was perplexed and she was brought back home by her mother. Thereafter, she disclosed the occurrence to her mother and the matter was reported to the police.

3.1. As per the supplementary statement of the victim recorded on 22.12.2023 (Annexure R-3) and the statement of the mother of the victim, the petitioner-Satyawan was found involved in this case.

4. Learned counsel for the petitioner contends that the petitioner is in custody since 26.12.2023. The statements of the prosecutrix and her mother have already been recorded (Annexures P-6 and P-7) and they have not supported the case of the prosecution. He further contends that the name of the petitioner is neither mentioned in the FIR (Annexure P-1) nor in the statement recorded under Section 164 Cr.P.C.(Annexure P-2). He submits that the Investigating Agency has initially made an attempt to rope Amar and Rahul as accused, however later on, the petitioner has been falsely implicated in this case.

5. Learned State counsel has opposed the bail on the ground of gravity of allegations against the petitioner. Learned State counsel while referring to the status report dated 28.08.2024 submits that as per the Medico Legal Report of the

victim (Annexure R-1) appended with the said status report, the doctor has opined that the possibility of sexual intercourse cannot be ruled out. As per the disclosure statement of petitioner, a car and mobile phone was recovered from him. As per the DNA report dated 30.09.2024 received from Forensic Science Laboratory, Madhuban, the DNA profile on the legging and swab of the victim matched with the DNA profile of the petitioner.

6. I have heard learned counsel for the parties and have also gone through the paper-book, as well as the status report, carefully.

7. The petitioner is 29 years of age whereas the age of the victim is 14 years. During the investigation, the date of birth of the prosecutrix has been ascertained as 21.05.2009 on the basis of school records and the birth certificate issued by the Registrar, Death and Birth, Municipal Corporation, Rohtak (Annexure R-4).

8. The First Information Report was recorded on the basis of version given by the prosecutrix. The petitioner is neither named in the FIR nor in the statement recorded by the Judicial Magistrate under Section 164 Cr.P.C.

9. In the statement recorded during the trial (Annexure P-6), the prosecutrix has categorically stated that accused Amar and Satyawar have not committed any wrong act with her. She has further clarified that accused Amar is her neighbour. On 18.12.2023, a quarrel took place between the family of Amar and victim's family in connection with the place of dumping the garbage. In this regard, victim's family had made a complaint to the police but the police had not taken any action on that complaint. The said complaint was torn and thrown by the police. On next day, victim along with her family visited the police station with a local political leader, who talked to the police. The local political leader

had asked to write something and thereafter, the prosecutrix had written a complaint as stated by him. On the said basis, she made a statement before the Area Magistrate also. The witness was declared hostile and Public Prosecutor was permitted to put leading question to the witness, despite that the prosecutrix did not state anything incriminating against the petitioner. In the cross-examination conducted on behalf of the petitioner-accused, the victim has categorically stated that petitioner-Satyawan and Amar-co-accused of the petitioner have never done any kind of overt action and they both are innocent.

10. The investigation is already complete. The final report (*‘challan’*) under Section 173 Cr.P.C. has already been presented before the trial Court. The conclusion of the trial is going to take time. The statements of the material witnesses have already been recorded. There is no apprehension of absconding of the petitioner during the trial. The evidential value of the DNA report and other evidence which would subsequently come on record during the trial would be evaluated by the trial Court.

11. Keeping in view the above facts and circumstances of the present case and the custody period of the petitioner, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bonds and surety bonds to the satisfaction of the trial Court concerned.

12. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

(HARPREET KAUR JEEWAN)
JUDGE

15.01.2025
P.Bhatt

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No